IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE V.V.S.RAO**

**WRIT PETITION NO : 18415 of 1999**

Between:

1. Mamidipalli Ramamurthy, s/o.late Appanna.

2. Telukula Dilleswara Rao, s/o.late Sambrai Behra.

3. Telukula Bairagi, s/o. late Sambri Behra.

4. Mamidipalli Dharma Rao, s/o.late Ramaswamy.

5. Mamidipalli Bairi, s/o. late Somayya.

6. Rella Durvasulu, w/o. late Duryodhana.

7. Lotla Chitti, s/o.late Tatayya.

8. Rella Gunnayya, s/o.late Lokanadam.

9. Rella Chinnodu, s/o.late Karriyya.

10. Banju Chinnodu, s/o.late Ramudu.

11. Telukula Appanna, s/o.late Balaram.

12. Tota Ammayi, s/o.late Gopalaswamy.

13. Malla Krishna Rao, s/o.Nukayya.

14. Banju Durvasulu, w/o. Chitti.

15. Rella Neelaveni, w/o.late Ramaswamy.

16. Banju Lokanadham, s/o. Chitti.

(all the petitioners are resident of Sompeta village

and Mandal, Srikakulam District)

**.... PETITIONERS**

AND

1. The District Collector, Srikakulam.

2. The Commissioner of Endowments, A.P., Hyderabad.

**...RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate order or direction or a writ more particularly a writ in the nature of Mandamus declaring the proceedings Rc.No.412/99, dated 11-7-1999 for acquisition of land in Survey No.321 of Sri Kodandaramaswamy Temple of Sompeta Village and Mandal, Srikakulam District as illegal, void.

**Counsel for the Petitioners : MR. A.RAVI SHANKAR**

**Counsel for the Respondents : GP FOR LAND ACQUISITION**

**The Court made the following :**

**ORDER :**

The petitioners are residents of Sompeta Village and Mandal, Srikakulam District. They claim to be the tenants of the land belonging to Sri Kodandaramaswamy Temple comprised in Survey No.321 admeasuring Acs.21-95 of the said village. The land is sought to be acquired under the provisions of Land Acquisition Act, 1894 (for brevity 'the Act') in 1996. The petitioners challenge the Notification issued under Section 4(1) of the Act successfully in W.P.No.7477 of 1996 on various grounds. This Court by order dated 10-4-1996 disposed of the writ petition directing the respondents to conduct enquiry under Section 5-A of the Act. Again, the respondents issued Notification on 11-7-1999 assailing which the present writ petition is filed raising various grounds.

Opposing the writ petition, the District Collector has filed a counter affidavit. It is stated that the Notification issued on 15-3-1996 was lapsed, and therefore, the impugned Notification was issued proposing to acquire the land for house sites to members belonging to weaker sections. All other contentions raised in the writ affidavit are denied and it is further stated that possession was already taken by invoking the provisions of Section 17(4) of the Act.

Sri P.Appa Rao, representing Sri A.Ravi Shankar, learned counsel for the

petitioners, submits that the petitioners are small farmers, and therefore, acquisition of their lands is vitiated. Secondly, he would urge that the petitioners land is wet-land and low lying, and therefore, it is not suitable for house sites, therefore, respondents initiated the land acquisition proceedings without application of mind.

Per contra, the learned Assistant Government Pleader for Revenue (LA) submits that whether the land is suitable or not cannot be decided in a writ petition. Even if the petitioners are small farmers, no right is conferred on them to oppose the land acquisition proceedings. He submits that there are 1500 homeless persons in Sompeta Village, and therefore, proceedings were initiated by invoking the provisions of Section 17(4) of the Act and possession was already taken.

The land, admittedly, belongs to Sri Kodandaramaswamy Temple. The petitioners being the tenants of the temple land cannot be said to have been locus to question the Notification issued under the Act. Under Section 82(1) of Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act,1987 (for short 'the Endowments Act') the lease of agricultural land of a temple or Charitable Institution stands cancelled and it is always open to the temple to sell the land. As and when the land is sold by the temple under sub-section (2) of Section 82 of the Endowments Act, the petitioners are given a right of pre-emption to buy the land. For claiming such right as landless poor persons, the petitioners have to approach the Assistant Commissioner of Endowments under Rule 3 of Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Lease of Agricultural Land Rules, 2003. The petitioners are given liberty to approach the Assistant Commissioner of Endowments. If the petitioners are entitled for any compensation, they may approach the Land Acquisition Officer claiming a share in the compensation. Such claim for a share in the compensation shall be considered in accordance with the decision of a Division Bench of this Court in **Katari Satyanarayana v. District Collector, Krishna at Machilipatnam**. In this writ petition no relief can be granted to the petitioners invalidating the Notification issued under Section 4(1) of the Act.

The writ petition, with the above observations, is dismissed. No costs.

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(V.V.S.RAO, J.)

Dt.16-08-2004.

Msr.

To

1. The District Collector, Srikakulam.

2. The Commissioner of Endowments, A.P., Hyderabad.

3. 2CCs to Government Pleader for Land Acquisition,

High Court of A.P., Hyderabad.

4. 2CD copies

**HON'BLE SRI JUSTICE V.V.S. RAO**

**WRIT PETITION No.18415 of 1999**

**Dt.16-08-2004.**

**(Msr)**